

## **REMARKS**

Reconsideration and withdrawal of the rejections of the pending claims are respectfully requested in view of the amendments, remarks and enclosures herewith.

### **I. STATUS OF THE CLAIMS AND FORMAL MATTERS**

Claims 41, 43-66, 82-84 and 86-92 were pending in this application. Claims 1-51 and 54-90 have been canceled, and claim 52 has been amended without prejudice, without admission, without surrender of subject matter, and without any intention of creating any estoppel as to equivalents.

Claim 52 has been amended to include the subject matter of canceled claim 41.

No new matter has been added.

The Examiner is thanked for withdrawing the previous objections and rejections under 35 U.S.C § 112. The Examiner is also thanked for indicating that claim 53 has been deemed allowable and that claims 52 and 91-92 are free of the prior art.

It is respectfully submitted that the claims, as originally presented and as amended herein, are patentably distinct over the art, and that those claims are and were in full compliance with the requirements of 35 U.S.C. § 112. The amendments and the remarks made herein are not made for the purpose of patentability within the meaning of 35 U.S.C. §§ 101, 102, 103 or 112. Rather, the amendments and remarks herewith are made simply for clarification and to round out the scope of protection to which Applicant is entitled.

### **II THE OBJECTIONS TO THE CLAIMS ARE OVERCOME**

Claim 88 was objected to because it lacks an article at the start of the claim. In the interest of expediting prosecution, claim 88 has been canceled, rendering this objection moot.

### **III. THE REJECTIONS UNDER 35 U.S.C. § 112 ARE OVERCOME**

Claims 41, 43-52, 54-66, 82-84 and 86-92 were rejected under 35 U.S.C. § 112, as allegedly being indefinite. Claim 41 is allegedly indefinite because words appear to be missing from the claim. In the interest of expediting prosecution, claim 41 has been canceled and the subject matter of claim 41 has been incorporated into independent claim 52. In so doing, the subject matter that was previously recited in claim 41 has been clarified to now recite, "subsequently placing the plant material into contact with a liquid culture medium and adding a selection agent to the culture medium comprising the plant material." Regarding the rejection of

the remaining claims, Applicant submits that for the purpose of expediting prosecution, claims 43-51, 54-66, 82-84 and 86-90 have been canceled. Claims 91 and 92 depend directly or indirectly from claim 52, which has been amended herein to overcome the rejection under Section 112. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the Section 112 rejections.

**III     THE ART REJECTIONS UNDER U.S.C. 35 § 103 ARE OVERCOME**

Claims 41, 43-47, 51, 54, 57-60, 64-66, 82-83, 86-89 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Koop *et al.* (1996, Planta 199:193-201). For the sole purpose of expediting prosecution, claims 41, 43-47, 51, 54, 57-60, 64-66, 82-83, 86-89 have been canceled, rendering this rejection moot.

**REQUEST FOR INTERVIEW**

If any issue remains as an impediment to further examination and/or allowance, an interview with the is respectfully requested, prior to issuance of any paper other than a Notice of Allowance; and, the Examiner is respectfully requested to contact the undersigned to arrange a mutually convenient time and manner for such an interview.

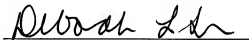
**CONCLUSION**

In view of the remarks and amendments herewith and those of record, the application is in condition for allowance. Favorable reconsideration of the rejections of the application and prompt issuance of a Notice of Allowance, or an interview at a very early date with a view to placing the application in condition for allowance, are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date.

Respectfully submitted,

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